

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MANFRED LAGEMANN, an individual;
STEVEN KOENIG, an individual; MITCH
STERCKX, an individual; AIVARAS CEPELIS,
an individual; ROLAND MAWLABAUX, an
individual; CAMERON PATTISON, an
individual; THI THANH XAUN DIANA VU
a/k/a DIANA VU, an individual; EDMOND
TROUNG, an individual; VITALIY RUDENKO,
an individual; YEW HWEE NG, an individual;
RIP BAINS, an individual; REGAL PATEL, an
individual; PETER SCHIDLOWSKI, an
individual; RICK RAMBO, an individual;
JEREMY LEE, an individual; DANIEL
TRUQUE, an individual; JOHNNA POWELL, an
individual; JOSÉ ALBERTO PIMENTEL
QUINTAS, an individual; ANDRÉ FINO
VIANA, an individual; JOSÉ DUARTE
MARTINS VIEIRA, an individual; JASON
GRANT, an individual; and NEILL GRANT,
an individual

Plaintiffs

v.

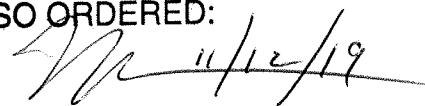
JEREMY SPENCE, an individual; JAIME CRUZ-
HERRERA, an individual; JOHN DOE NO. 1
a/k/a BLACKXANTUS, an individual
Defendants

- § 1) Permission granted.
§
§ 2) Plaintiffs shall also file an
§ amended proposed order
§ granting summary judgment.
§ (See Dkt. 82)
§
§ 3) The original summary judgment
§ motion of Dkt. 66 is denied
§ as moot.
§
§ 4) This resolves Dkt. 119

Civil Action No. 1:18-cv-12218-GBD-RWL

**MOTION FOR LEAVE TO FILE
AMENDED MOTION FOR
SUMMARY JUDGMENT**

SO ORDERED:


HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

MAILED BY CHAMBERS

Plaintiffs move the Court for leave to file their Amended Motion for Summary Judgment pursuant to Rule 16(b) of the Federal Rules of Civil Procedure. A copy of the proposed Amended Motion for Summary Judgment is attached.

Good cause exists for the Court to grant Plaintiffs' Motion for Leave because Plaintiffs acted with diligence to file the Amended Motion for Summary Judgment after receiving confirmation of service of the Amended Complaint upon Defendant Jeremy Spence ("Spence").

Pursuant to Court's order at the August 15, 2019 Status Conference, [DE 107], Plaintiffs served Spence with the Amended Complaint at his last known address, provided by Spence's former attorney. [DE 113]. Plaintiffs did not receive proof that Spence was served with the Amended Complaint via U.S. mail until after the Court's deadline for filing dispositive motions. *Id.* The Amended Motion for Summary Judgment is based on the Amended Complaint, necessitating the Complaint's filing and service prior to the filing of the Amended Motion for Summary Judgment. [See DE 109; Ex. A, Amended Motion for Summary Judgment].

Further, good cause exists because there is no undue delay or likelihood of prejudice to Spence, who has pled the Fifth Amendment, and who has repeatedly failed to adhere to the Court's orders. [DE 65, 73, 74, 77]. Moreover, Spence, through his prior counsel, received notice of the Motion for Summary Judgment – which alleges the same basic facts as the Amended Motion for Summary Judgment – and received the Amended Complaint. [DE 66, 113]. Spence has refused to respond.

For the reasons set forth above, Plaintiffs request that the Court grant Plaintiffs' Motion for Leave to File Amended Motion for Summary Judgment.

Dated: November 11, 2019.

Respectfully submitted,

THE BRAUNSTEIN LAW FIRM, PLLC

By: /s/Michael L. Braunstein
Michael L. Braunstein, Esq.
3 Eberling Drive
New City, New York 10956
Telephone: (845) 642-5062
E-mail: mbraunstein@braunsteinfirm.com

- and -

SILVER MILLER
DAVID C. SILVER
(*Pro hac vice*)
E-mail: DSilver@SilverMillerLaw.com
JASON S. MILLER
(*Pro hac vice forthcoming*)
E-mail: JMiller@SilverMillerLaw.com
11780 W. Sample Road
Coral Springs, Florida 33065
Telephone: (954) 516-6000

*Attorneys for Plaintiffs Manfred Lagemann,
Steven Koenig, Mitch Sterckx, Aivaras Cepelis,
Roland Mawlabaux, Cameron Pattison, Thanh
Xaun Diana Vu A/K/A Diana Vu, Edmond
Truong, Vitaliy Rudenko, Yew Hwee Ng, Rip
Bains, and Regal Patel*

BISSINGER, OSHMAN & WILLIAMS LLP

By: /s/ David K. Bissinger
David K. Bissinger
(*Pro hac vice*)
Email: dbissinger@bowlp.com
State Bar No. 00790311
S.D. Tex. No. 18150
Erin Bullard
(*Pro hac vice*)
Email: ebullard@bowlp.com
State Bar No. 2408844
S.D. Tex. ID No. 3005244
2229 San Felipe, Suite 1500
Houston, Texas 77019
Telephone: (713) 524-8811
Facsimile: (713) 583-8347

*Attorneys for Plaintiffs Peter Schidlowski, Rick
Rambo, Jeremy Lee, Daniel Truque, Johnna
Powell, José Alberto Pimentel Quintas, André
Fino Viana, José Duarte Martins Vieira, Jason
Grant, and Neill Grant*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was electronically filed with the Clerk of Court on this 11th day of November 2019 by using the CM/ECF system and that a true and correct copy will be served at the last known address provided to the Court by Defendant Jeremy Spence's counsel:

Via CM/RRR # 7016 2140 0000 5144 5899

Via Federal Express

Mr. Jeremy Spence
95 Horatio Street, Apt. 534
New York, NY 10014-1548

Defendant, Pro Se

/s/ David K. Bissinger